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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: :
:
Bruce A. Rogers, et al. :
:
Application No.: 10/763,846 : Group Art Unit: 3732
:
Filed: January 23, 2004 : Examiner: R.A. Running
:
For: ADJUSTABLE HAIR HOLDING :
DEVICE :
:
Atty. Docket No.: ROG030.10003 :

I, John F. Letchford, Registration No. 33,328, certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to Mail Stop Appeal Brief - Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on September 24, 2008.



John F. Letchford

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

**APPELLANTS' RESPONSE TO NOTIFICATION
OF NON-COMPLIANT APPEAL BRIEF**

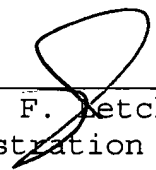
This response comes before the United States Patent and Trademark Office Board of Appeals and Interferences from a Notification of Non-Compliant Appeal Brief mailed August 27, 2008 ("Notification"). According to the Notification, the original brief did not contain a statement of the status of all claims or identify the appealed claims (37 CFR 41.37(c)(1)(iii)). Responsive thereto and as specifically

directed in the Notification, only the defective section containing a statement of the status of all claims is attached hereto. Applicants respectfully request that the attached replacement section "III. STATUS OF THE CLAIMS" be accepted and incorporated into the original brief filed on August 15, 2008 as if originally filed therewith.

In view of the foregoing, the instant application is believed to be in condition for docketing as an appeal. If the Examiner believes that a telephone interview would be beneficial to advance prosecution of the present application, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

Date: September 24, 2008


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III. STATUS OF THE CLAIMS

Claims 1, 3-6, and 9 are hereby appealed. The status of the claims in the application is as follows:

1. (Rejected) A hair holding device comprising:

a first body member and a second body member, said first and second body members comprising hair gripping portions adapted to be squeezed by a user whereby said hair gripping portions come into contact with gathered strands of a user's hair;

hinge means for pivotally connecting said first and second body members; and

adjustment means comprising a non-slip friction mechanism coaxially arranged with respect to said hinge means for causing said hair gripping portions to remain at a point at which said hair gripping portions are squeezed together by a user.

2. (Canceled) The hair holding device of claim 1 wherein said adjustment means comprise a non-slip friction mechanism.

3. (Rejected) The hair holding device of claim 1 wherein said non-slip friction mechanism comprises a first irregular surface associated with said first body member, a second irregular surface associated with said second body member, and biasing means for maintaining contact between said first and second irregular surfaces such that a non-slip friction interface is created between said first and second surfaces.

4. (Rejected) The hair holding device of claim 3 wherein said non-slip friction interface extends perpendicular to said hinge means.

5. (Rejected) The hair holding device of claim 3 wherein said first and second irregular surfaces are mating toothed surfaces.

6. (Rejected) The hair holding device of claim 3 wherein said biasing means comprise a tension spring having a first end in contact with said first body member and a second end in contact with said second body member for biasing said hair gripping portions into a predetermined position.

7. (Withdrawn) The hair holding device of claim 3 further comprising disengagement means for releasing contact between said first and second irregular surfaces in opposition to a biasing force of said tension spring to permit removal of said device from a user's hair.

8. (Withdrawn) The hair holding device of claim 3 wherein at least one of said irregular surfaces is integral with at least one of said first and second body members.

9. (Rejected) The hair holding device of claim 3 wherein at least one of said irregular surfaces is provided on at least one insert carried by at least one of said first and second body members.

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